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10/667,414	09/23/2003	Yoshikazu Shibamiya	03500.017590	1079

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EXAMINER

PARRA, OMAR S

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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/667,414	Applicant(s) SHIBAMIYA ET AL.	
	Examiner Omar Parra	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,8 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,8 and 28-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims **1, 3, 8 and 28-34** have been considered but are moot in view of the new ground(s) of rejection.

Although a new ground of rejections is presented, the examiner considers important to respond to certain arguments of the applicant about the art of record and used in the present Office Action. As per page 10, Remarks section on applicant's response filed on 11/29/2007, applicant seems to be arguing that Radford reference does not receive the information indicating the transmission mode information like the present invention, but instead the information received is the user interface. To this matter, the examiner respectfully disagrees.

Radford teaches a system where a user can receive a stream of video and the user is able to vary or modify the video quality (resolution, bit-rate, etc) using a user interface program ([0008], [0009], [0017], [0029]). Said program gives the user different bit-rate levels and resolutions supported with that bit-rate ([0024], [0025]). Those displayed possible combinations of bit-rate and resolutions are calculated or established by either a program (user interface) that can be stored on the client or at the server ([0008], [0011], [0019], [0023]-[0025], . Also, that combination of bit-rate and resolutions shown to the user can be the available bit-rates and the different qualities of the files available at the server ([0031]-[0032]). Therefore, if the user interface is downloaded from the server and used to calculate the possible rates and resolutions, then the server

sent information (user interface program) that indicates the user the possible bitrates and resolutions for the streamed video. Furthermore, if the user interface program is resident at the client, and a listing of bitrates and qualities available at the server for the streamed video is displayed to the user, then, inherently, a transmission of said information indicating the available bitrates and qualities from the server to the client needs to be performed. Therefore, the examiner believes that the Radford reference covers all the limitations of applicant's invention as claimed.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims **1, 3, 28, 30, 31 and 33** are rejected under 35 U.S.C. 102(e) as being anticipated by Radford et al. (hereinafter 'Radford', Pub. No. 2002/0144276, of record).

Regarding claims 1 and 30, Radford teaches a receiving apparatus **([0016])** (with respective method) comprising:

a reception unit constructed to receive image data transmitted through a network **([0007], where the client devices of [0016] are well know to have a reception unit)**, and to receive transmission mode information as to a plurality of transmission modes of a transmitting apparatus in transmitting the image data, the transmission mode information including different combinations of pixel number information and

transmission rate information ([0024], [0025], where the displayed possible combinations of bit-rate and resolutions are calculated or established by either a program (user interface) that can be stored on the client or at the server ([0008], [0011], [0019], [0023]-[0025], or the combination of bit-rate and resolutions shown to the user can be the available bit-rates and the different qualities of the files available at the server ([0031]-[0032])). Therefore, if the user interface is downloaded from the server and used to calculate the possible rates and resolutions, then the server sent information (user interface program) that indicates the user the possible bitrates and resolutions for the streamed video. Furthermore, if the user interface program is resident at the client, and a listing of bitrates and qualities available at the server for the streamed video is displayed to the user, then, inherently, a transmission of said information indicating the available bitrates and qualities from the server to the client needs to be performed);

an output unit constructed to circuit for output the image data received by said reception unit to a display apparatus (210, Fig. 2); and

a control unit (devices of [0016] are well known to possess a control or processing unit) for selecting one transmission mode from the transmission mode information based on size information of a display area in which an image is displayed based on the image data, and based on the pixel number information and the transmission rate information in the transmission mode information, and generating a signal for requesting the transmitting apparatus to transmit the image data in the pixel

number and the transmission rate corresponding to selected transmission mode, and transmitting the generated signal to the transmitting apparatus ([0029]-[0031]).

Regarding claims 3 and 31, Radford teaches a receiving apparatus ([0016]) (with respective method) wherein said control unit selects the transmission mode having a transmission rate lower than that of a maximum reception speed in which said reception unit can receive image data through said network ([0011], [0022], [0025], [0029]).

Regarding claims 28 and 33, Radford teaches a receiving apparatus ([0016]) (with respective method) further comprising a broadcast signal receiving unit for receiving a broadcast signal **(being the client device the digital television of paragraph [0016], the names of the elements change, i.e. the reception unit should change to broadcast signal receiving unit, since the transmitter in given case is a signal broadcasting station, for example)**, wherein

the broadcast signal receiving unit derives, from the broadcast signal **(when a television headend communicates with the television client, it is well known that the signal for communicating is broadcast)**, event information including at least the size information of the display area **(the sizes or resolutions available for the files available for the users at the headend are sent down the client and then displayed through a user interface, [0031])**, and

the control unit **(devices of [0016] are well known to possess a control or processing unit)** selects the one transmission mode from the transmission mode

information based on the size information in the event information, and based on the pixel number information and the transmission rate information in the transmission mode information ([0029]-[0031]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **8, 29, 32 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Radford et al. (hereinafter 'Radford', Pub. No. 2002/0144276, of record) in view of Ellison et al. (hereinafter 'Ellison', Patent No. 7,058,721).

Regarding claims 8 and 32, Radford teaches all the limitations of the claims they depend on. On the other hand, Radford does not explicitly teach having a buffer memory for storing the image data received by said reception unit and changes an amount of data to be stored in said buffer memory according to the transmission mode in which the transmission is requested to be performed.

However, in an analogous art, Ellison teaches a client device, which contains a buffer, that is able to dynamically change the quality of a streamed content and when changing the transmission rate or the quality of the video, additional information is sent down to the client to let know the timing when the buffer needs to be emptied for

receiving the next frame for processing. This is based on the rate and quality at which the content is being transmitted (238, Table 2 on col. 10; 243, Table 4, col. 11; col. 16 line 32- col. 17 line 19; col. 18 lines 36-46).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Radford's invention with Ellison's feature of sending additional information to the decoder when the transmission rate is dynamically modified for the benefit of avoiding buffer overflow when processing.

Regarding claims 29 and 34, Radford teaches all the limitations of the claims they depend on. On the other hand, Radford does not explicitly teach wherein the event information further includes information discriminating the image data.

However, in an analogous art, Ellison teaches a streaming system and method where clients devices are able to dynamically change the transmission rate and where the streamed data contains time information that tells the decoder the time, relative to the beginning of the movie, a given frame is to be played (228, table 2, col. 10; 241, table 4, col. 11). Also, the information included in the streamed data information of the position of a given frame at which it should be played (226, table 2, col. 10; 235 and 237, table 4, col. 11). This information helps to discriminate and recognize streamed frames.

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Radford's invention with Ellison's feature of sending

additional information to discriminate the different streamed frames for the benefit of having a smooth display with the different transmission rates.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Parra whose telephone number is 571-270-1449. The examiner can normally be reached on Under Academy Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP


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